Attorney Interrogation Ruled Out By 7 Judge

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HARRISBURG, Pa. (AP) — The judge who presided at the Harrisburg 7 trial ruled Monday he'd allow the prosecution file to be inspected in private chambers—by himself only—but refused to allow the defense to interrogate two government attorneys about the case.

The motion for interrogation was made before U.S. District Judge R. Dixon Herman during a post-trial hearing in which counsel for the Rev. Philip Berrigan and Sister Elizabeth McAlister continued trying to find out the Justice Department's reasons for prosecuting.

Two weeks ago, Herman rejected a defense motion to inspect department files pertaining to the case.

After defense attorney Ramsey Clark asked for permission to question government attorneys William Lynch and S. John Cottone on the stand, Herman said, "I'll allow the prosecution file to be inspected in camera (in chambers) to see if there is anything in it that is discriminatory prosecution" but that attorneys for both sides would not be allowed to be present.

Berrigan was convicted of smuggling letters out of Lewisburg (Pa.) federal prison in 1970 while he was an inmate there. Sister Elizabeth was convicted of smuggling letters into the prison to Berrigan.

Attorneys for the two were attempting to show the government has not enforced a federal statute prohibiting smuggling contraband, including letters, in and out of prison. To do so now would be discriminatory, they contend.

Berrigan, Sister Elizabeth and five others had been charged with conspiring to kidnap presidential aide Henry Kissinger; blow up heating tunnels in Washington D.C. federal buildings and raid East Coast draft offices.

The jury could reach no decision on those charges during the 10-week trial this year. The government has the option of retrying the defendants to prove a conspiracy existed.

The defense also continued efforts to prove the government prosecuted with "tainted" evidence obtained from illegal wiretapping. The government has admitted overhearing conversations of Sister Elizabeth, but said they were not used in trying the case.

FBI Special Agent Charles A. Durham Jr., of the Philadelphia office, testified that no leads for prosecution came from the conversations.

"If any leads were from this conversation, I know of no such leads," said Durham, who said he coordinated the FBI's investigation of the case.

His testimony was backed up by William B. Anderson Jr. special agent supervisor in the Philadelphia FBI office.